

STATE OF MARYLAND

**MARYLAND DEPARTMENT OF THE ENVIRONMENT**

**Shari T. Wilson, Secretary**

**BILL NO:** House Bill 89

**COMMITTEE:** Environmental Matters

**POSITION:** Support with Amendment

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**TITLE: Environment – Wetlands and Waterways Program Fees – Aquaculture**

**BILL ANALYSIS:** This bill would exempt aquaculture activities for which the Department of Natural Resources has issued a permit under §4-11A-02 from the application fees established under §5-203.1(b)(2) of the Environment Article.

With the exception of aquaculture operations that take place designated Aquaculture Enterprise Zones (AEZ's), aquaculture activities in tidal waters require a State tidal wetlands license or tidal wetlands permit under Title 16 of the Environment Article. In addition, aquaculture operations that impact nontidal wetlands or nontidal waterways require a nontidal wetlands and waterways permit under Title 5, Subtitle 5 and 9 of the Environment Article. All wetland applications must be accompanied by a \$750 application fee, with major projects (i.e., those that involve more than 5,000 square feet of impact, require a public notice, or otherwise implicate endangered species, historical resources, or other sensitive resources) charged between \$1,500 to the impact area in acres multiplied by \$7,500 for a project with a proposed permanent impact of one acre or more. In addition, an applicant's request to modify an existing authorization is assessed a \$500 fee. Some activities are exempt from the fees, including State and local projects; certain agricultural and forestry best management practices; and stream restoration, vegetative shoreline stabilization, wetland creation, or other projects in which the primary effect is to enhance the State's wetland or water resources. Application

fees, which may be adjusted annually for inflation, are paid into the Wetlands and Waterways Program Fund.

Due to public notice requirements, commercial oyster aquaculture will always be classified as a major project, thus triggering a total fee of \$1,500 (a \$750 initial application fee and a \$750 major application fee), but that no impact fee will be assessed. No application will be assessed for environmental oyster aquaculture, as it falls under the existing statutory exemption for projects that enhance the State's wetland or water resources. Aquaculture activities occurring in DNR-approved Aquaculture Enterprise Zones (AEZs) in the Chesapeake Bay are exempt from licensing requirements established for State wetlands. This bill would exempt commercial aquaculture projects from all fees.

**POSITION AND RATIONALE:** The Department recognizes the environmental and economic benefits of aquaculture activities within the Chesapeake Bay, and supports efforts to foster this industry. Although the current level of permit activity has been historically low, the Department is concerned that a significant increase in aquaculture operations in the future would result in a deficiency of resources to support the increase in permit issuance. Therefore, the Department is offering an amendment that would require the Aquaculture Coordinating Council to report to the Department and the General Assembly in three years on the status of commercial aquaculture in the State, the fiscal impact to the Department of the fee exemption, and other findings and recommendations related to the implementation of this bill.

**FOR MORE INFORMATION,**  
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BY: The Maryland Department of the Environment

AMENDMENT TO HOUSE BILL 89  
(First Reading File Bill)

AMENDMENT NO. 1

On page 4, after line 9 insert “SECTION 2. AND BE IT FURTHER ENACTED, THAT ON OR BEFORE OCTOBER 1, 2013, THE MARYLAND AQUACULTURE COORDINATING COUNCIL SHALL REPORT TO THE MARYLAND DEPARTMENT OF THE ENVIRONMENT AND THE MARYLAND GENERAL ASSEMBLY REGARDING THE STATUS OF COMMERCIAL AQUACULTURE IN THE STATE, THE FISCAL IMPACT OF THE FEE EXEMPTION, AND ANY OTHER FINDINGS AND RECOMMENDATIONS RELATED TO THE IMPLEMENTATION OF THIS BILL. THE MARYLAND AQUACULTURE COORDINATING COUNCIL SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE.”